

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

3 MATTHEW R. LINDNER, individually; as) CASE NO.: 2:10-cv-00051-RFB-VCF
4 surviving spouse and legal heir of ELSY LETICIA)
5 GRANADOS-MARTINEZ, deceased; as)
6 surviving parent and legal heir of CAMILA)
7 LYNETE LINDNER, a deceased minor; and as)
Guardian Ad Litem of PAULINA GRANADOS-)
MARTINEZ, a minor; FERNANDO)
GRANADOS-MAGALLON, individually and as)
surviving spouse and legal heir of REFUGIO)
8 LETICIA MARTINEZ COSIO,)
9 Plaintiffs,)
10 vs.)
11)
12 FORD MOTOR COMPANY, a Delaware)
corporation; BERTHA MEZA d/b/a OROZCO)
13 AUTO SALES; EVENFLO COMPANY, INC., a)
Delaware corporation; BIG LOTS STORES, INC.,)
14 an Ohio corporation; DOES I through XX,)
inclusive and ROE BUSINESS ENTITIES I)
15 through XX, inclusive,)
16 Defendants.)

PLAINTIFFS' ADDITIONAL PROPOSED JURY INSTRUCTIONS

1 Federal Motor Vehicle Safety Standards are minimum standards. Compliance with a motor vehicle
2 safety standard does not mean that a product is not unreasonably dangerous or defective, nor does
3 compliance with a motor vehicle safety standard by a product manufacturer exempt it from
4 liability.

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Authority: The first sentence is based on *O'Hara v. GMC*, 508 F.3d 753, 761 (5th Cir. 2007). The second sentence is based on the Savings Clause of the Safety Act, 49 U.S.C. § 30103(e).

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2 A product is defective in its design if, as a result of its design, the product is unreasonably
3 dangerous.

4 A product is unreasonably dangerous if it failed to perform in the manner reasonably to be expected
5 in light of its nature and intended function, and was more dangerous than would be contemplated by
6 the ordinary user having the ordinary knowledge available in the community.

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8 A plaintiff need not produce direct evidence of a specific product defect or negate any alternative
9 causes of the accident. An unexpected, dangerous malfunction suffices.

10 Misuse of a product means a use which the defendant could not reasonably foresee. The mere fact
11 that the defendant may not intend the product to be used in a certain way does not mean that using it
12 in that way is a legal misuse of the product. If the defendant should reasonably foresee that the
13 product may be used in a way other than intended by him, such other use is not a misuse.
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27 Authority: The authority for each part of this is set out in our other brief being filed today.

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1 It is not a defense to liability for a defective product that the plaintiff was negligent or that the
2 plaintiff's negligence contributed to cause damages or injuries you find were proximately caused by
3 a defective product. You may not consider the negligence, if any, of Matthew Lindner when
4 determining your verdict in this case.

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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **PLAINTIFFS' PROPOSED ADDITIONAL JURY INSTRUCTIONS** was made this date by electronic service to the following:

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DATED this 5th day of October, 2015.

/s/ Amy L. Sulanke.
An employee of BENSON & BINGHAM